THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :14359 OF 2007

DATED:06-08-2007

BETWEEN:

Bolla Appaiah.

.....
PETITIONER

AND

Government of A.P.,
Rep., Home Department,
Secretariat,
Hyderabad & 3 others.

.....RESPONDENTS

ORDER:

Heard learned counsel appearing for the petitioner as well as the learned Government Pleader for Home appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the action of the respondents in not considering his father Bolla Venkateswarlu CT.No.6901 Central Jail, Rajahmundry under remission system by permission of sentence on par with other jail-mates as per various Government orders time to time issued by not treating the period from 06-12-2000 to 16-10-2004 as overstay, as illegal, and arbitrary.

3. Sri Kuna Anji Reddy, learned counsel appearing for the petitioner, submits that the father of the petitioner-Bolla Venkateswarlu was convicted for the offence punishable under Section 302 IPC in S.C.No.114 of 1987 on the file of the Sessions Judge, Guntur which was confirmed by this Court in Crl.A.No.891 of 1988 and also by the Supreme Court in Cr.l.A.No.263 of 1992. It is stated that the said Venkateswarlu got bail on 23-04-1993 and the Supreme Court confirmed the conviction and sentence by order, dated 06-12-2000, but as he was not aware of the confirmation of the Supreme Court he could not be surrendered or taken into custody till he was apprehended on 16-12-2004. Thus, it is the case of the petitioner that the sentence period from

06-12-2000 i.e., from the date of confirmation by the Supreme Court till he was apprehended on 16-10-2004 was not taken into account for the purpose of granting remission as per the relevant G.Os of the Government, but however petitioner has not filed any Government Order under which the said Venkateswarlu is entitled for remission of the said period, during which he was outside the jail.

4. When the matter has been taken up for admission on 06-07-2004 petitioner was asked to furnish the relevant Government Orders so as to consider his claim. None of the Government Orders were filed but on the other hand, it is contended he is entitled to treat the sentence as if he has undergone punishment from 06-12-2000 to 16-12-2004. I am unable to accept the said contention as admittedly he was not a prisoner and he was not in prison during the said period, and therefore the question of treating the father of the petitioner as prisoner from 06-12-2000 to 16-12-2004 does not arise.

5. Accordingly, Writ Petition is dismissed. There shall be no order as to costs.

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V.ESWARAIAH,J

06th August, 2007.

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